

9 FAM 41.108 NOTES

(CT:VISA-714; 03-08-2005)
(Office of Origin: CA/VO/L/R)

9 FAM 41.108 N1 MEDICAL EXAMINATION OF CERTAIN NONIMMIGRANT VISA APPLICANTS

9 FAM 41.108 N1.1 Fiance(e)s

(CT:VISA-714; 03-08-2005)

Since applicants for K visas are essentially intending immigrants, a complete medical examination is required in every case. (See 9 FAM *41.81 N4 (a)(1)*.) Medical examinations for K visa applicants should include the vaccination assessment described in INA 212(a)(1)(A)(ii). The consular officer should encourage fiance(e) visa applicants to meet the vaccination requirements to the extent they can, before admission to the United States.

9 FAM 41.108 N1.2 Applicants Not Meeting Vaccination Requirements

(CT:VISA-714; 03-08-2005)

K visa applicants who do not meet all the vaccination requirements should not be refused a fiance(e) visa on that basis. A decision on the waiver of INA 212(a)(1)(A)(ii) will be deferred pending the filing of the adjustment of status application and review by *Department of Homeland Security (DHS)*. In cases where the vaccination requirement is not met by the alien prior to the issuance of a fiance(e) visa, posts should prepare a single page addendum to the DS-3025 Vaccination Documentation Worksheet.

9 FAM 41.108 N1.3 Application for Adjustment of Status After K Applicant Admitted to the U.S.

(CT:VISA-714; 03-08-2005)

After the alien is admitted to the United States in K status and applies for an adjustment of status based on the relationship to the U.S. citizen named in the approved Form I-129F, Petition for Alien Fiancé(e). *DHS* will use the

panel physician's findings set forth on the DS-3025, Vaccination Documentation Worksheet to determine the alien's admissibility on medical grounds. Where the applicant has fully met the vaccination's requirements of INA 212(a)(1)(A)(ii), as indicated on the DS-3025, no further action will be required. Aliens who have not fully satisfied the vaccination requirements, however, will have to do so before they may finalize their adjustment of status in the United States (unless otherwise entitled to an individual or blanket waiver from *DHS*.)

9 FAM 41.108 N1.4 Aliens Seeking Admission for Medical Treatment

9 FAM 41.108 N1.4-1 Waiver May Be Required

(TL:VISA-277; 05-10-2001)

Whenever an alien is seeking admission for medical treatment, complete information shall be required regarding the nature of the disease, effect, or disability for which treatment is being sought. (If action under INA 212(d)(3)(A) will be required, see 9 FAM 40.11 N8 and 9 FAM 40.301 Regs/Statutes and 9 FAM 40.301 Notes.)

9 FAM 41.108 N1.4-2 Public Charge Requirement

(TL:VISA-162; 02-24-1997)

When the alien's own resources are not sufficient or would not be available for use outside the country of residence and sponsorship affidavits are accepted, the affidavits shall include explicit information regarding the arrangements which have been made or the facilities which will be available to the alien for support in the United States during the proposed period of medical treatment and assurance that a bond will be available if required by the Attorney General.

9 FAM 41.108 N1.5 Other Nonimmigrants To Be Examined Only if Medical Ineligibility Suspected

(CT:VISA-714; 03-08-2005)

A medical examination may be required if the consular officer believes that it might disclose that the alien is medically ineligible to receive a visa. (*See 22 CFR 41.108(a)(3)*).

9 FAM 41.108 N1.6 Medical Examinations Valid for 1 Year

(TL:VISA-2; 08-30-1987)

The validity period for a medical examination of an alien is 1 year.

9 FAM 41.108 N2 CHEST X-RAYS, SEROLOGIC TESTS, AND X-RAY REQUIREMENT FOR PREGNANT WOMEN

9 FAM 41.108 N2.1 Chest X-Ray and Serologic Tests

(CT:VISA-714; 03-08-2005)

The regulations of the USPHS (*see 42 CFR 34.3(b)*) provide that neither a chest X-ray examination nor serologic testing for syphilis and HIV infection shall be required if the alien is under the age of 15. A tuberculin test may be required, however, where there is evidence of contact with a known case of tuberculosis or other reason to suspect infection with tuberculosis, and a chest X-ray examination is required in the event of a positive reaction. A serologic test may be required where there is reason to suspect infection with syphilis or HIV.

9 FAM 41.108 N2.2 X-Ray Requirement for Pregnant Women

(TL:VISA-328; 10-25-2001)

US Public Health Service/Center for Disease Control (USPHS/CDC) has approved an exception to the chest X-ray requirement for pregnant women who are required to have a medical examination in connection with the issuance of a visa. For the health of the applicant and her unborn child, USPHS/CDC requests that she be counseled regarding the advisability of obtaining a tuberculin skin test and any necessary follow-up at the local health department after she arrives in the United States. The consular officer shall include the Form DS-3024, Chest X-Ray and Classification Worksheet.

9 FAM 41.108 N3 REFERRAL OF DOUBTFUL CASES BY PANEL PHYSICIANS TO LOCAL SPECIALISTS AND USPHS

9 FAM 41.108 N3.1 Cases To Be Referred Locally if Possible

(TL:VISA-347; 01-15-2002)

Since USPHS does not have physicians stationed abroad to whom panel physicians may refer doubtful cases, consular officers shall inform local panel physicians that whenever further medical consultation is deemed advisable the visa applicant should be referred to an appropriate local specialist at the applicant's expense. Under generally accepted medical procedures, the specialist should report findings and opinion to the panel physician who remains responsible for the completion of Forms DS-2053, Medical Examination for Immigrant or Refugee Applicant and DS-3024, Chest X-Ray and Classification Worksheet and the final results of the medical examination.

9 FAM 41.108 N3.2 Referral to USPHS in Rare Instances

(TL:VISA-14; 08-30-1988)

- a. In those comparatively rare instances where no local specialist is available for consultation, local panel physicians may refer specific problems to the USPHS at the following address:

Director
Division of Quarantine (E03)
Centers for Disease Control
Atlanta, Georgia 30333

- b. In submitting medical questions relating to diseases of the chest, the panel physician should furnish the following:
 - (1) A complete medical history, including history of the clinical course of the disease;
 - (2) Bacteriological studies;
 - (3) Description of X-ray findings (transmit all X-rays);

- (4) Detailed account of treatment (chemotherapy and other); and
 - (5) Organism resistance studies, if done.
- c. If the problem relates to mental illness, the following information should be furnished:
- (1) A complete medical history of the alien, including details of any hospitalized care or treatment for any physical or mental condition;
 - (2) Findings as to the current physical condition of the alien, including reports of chest X-ray examination and of serologic testing for syphilis and HIV infection if the alien is 15 years of age or older, and other pertinent diagnostic tests; and
 - (3) Findings as to the current mental condition of the alien, with information as to prognosis and life expectancy and with a report of a psychiatric examination conducted by a psychiatrist who, in case of mental retardation, should also provide an evaluation of intelligence.
- d. For an alien with a past history of mental illness, the medical report should contain information on which the USPHS can base a finding as to whether the alien has been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery.

9 FAM 41.108 N4 DIVULGENCE OF CONTENTS OF MEDICAL EXAMINATION REPORTS

(TL:VISA-14; 08-30-1988)

Consular officers shall be guided by the information in 9 FAM 40.4 N3 in responding to inquiries on individual visa cases and grounds of visa ineligibility for medical reasons. In any case in which an individual applicant has been found eligible for a visa, including having passed the medical examination, and an interested person such as a prospective employer inquires as to the particulars of the alien's medical condition, the consular officer shall reply only that the alien concerned has been found to be medically qualified for a visa under existing law and regulations and that the alien may be consulted with respect to the alien's general physical and mental condition.

9 FAM 41.108 N5 CONFIDENTIALITY OF REPORTS RECEIVED FROM THE USPHS

(TL:VISA-2; 08-30-1987)

Consular officers receiving reports from the USPHS in response to direct requests for review may inform inquirers that the report has been received but may furnish additional information only as consistent with the requirements of INA 222(f) concerning the confidentiality of records pertaining to the issuance or refusal of visas.

9 FAM 41.108 N6 USPHS REGULATIONS GOVERNING MEDICAL EXAMINATIONS

(TL:VISA-162; 02-24-1997)

USPHS regulations relating to medical examinations of applicants are contained in 42 CFR 34. Specific instructions for performance of medical examinations are contained in the June 1991 Technical Instructions for the Medical Examinations of Aliens. Each panel physician should have his or her own personal copy of the Instructions. The Technical Instructions are available in English, Spanish and French, and copies may be ordered from:

Director
Division of Quarantine (E03)
Center for Prevention Services
Centers for Disease Control
Atlanta, Georgia 30333

9 FAM 41.108 N7 DANGEROUS CONTAGIOUS DISEASES DESIGNATED BY THE USPHS

(TL:VISA-162; 02-24-1997)

USPHS has designated the following as communicable diseases of public health significance:

- (1) Chancroid;
- (2) Gonorrhea;
- (3) Granuloma inguinale;

- (4) Human immunodeficiency virus (HIV) infection;
- (5) Leprosy, infectious;
- (6) Lymphogranuloma venereum;
- (7) Syphilis, infectious stage; and
- (8) Tuberculosis, active.